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**TOTAL NUMBER OF PAGES, INCLUDING COVER SHEET: 11**

**TO:** Cynthia Kratz  
PTO Legal Office

**FAX NO.:** 703-308-6459

**FROM:** Richard Klar, ESQ.

**DATE:** September 8, 2003

**TIME:** 3:38 PM

**C/M:** 37721/FLK05

**MESSAGE:** Re: 10/031,123, Se-Chang KWON, et.al.

As per your conversation with Naomi Mbys earlier today, enclosed please find a Request for Corrected Filing Receipt

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NYDOCS1-697759.1

DE-1325

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE****APPLICANTS:** Se-Chang KWON, ET.AL.**SERIAL NO. :** 10/031,123**FILED :** January 9, 2002**FOR :** MODIFIED HUMAN GRANULOCYTE-COLONY  
STIMULATING FACTOR AND PROCESS FOR PRODUCING  
SAME**REQUEST FOR CORRECTED FILING RECEIPT**

Commissioner of Patents  
Attention: Cynthia Kratz  
Attorney Advisor, PCT Legal Office  
Facsimile Number: 703-308-6459

**S I R:**

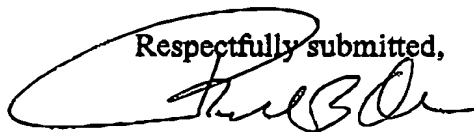
We are in receipt of your Decision dated August 6, 2003 on our Petition to Change the filing date of the above-referenced application. We have also received a new filing receipt pursuant to your August 6<sup>th</sup> Decision,. Copies of both documents are enclosed herewith.

The filing receipt should be corrected in order to place it in conformity with the August 6<sup>th</sup> Decision. In particular, the August 6<sup>th</sup> Decision determined that the correct filing date should be January 9, 2002, whereas the filing receipt shows this date as May 13, 2002. Please correct this date.

In addition, the filing receipt and enclosed Notice of Acceptance of Application indicate that the application is a 371 of PCT/KR00/00733. This is not consistent with the August 6<sup>th</sup> Decision determination to treat the application as having been filed under 35 U.S.C. 111(a) with priority based on the PCT application and the Korean parent application.

The issuance of a corrected receipt would be appreciated.

Respectfully submitted,



Richard B. Klar  
Reg. No. 31,385

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**FACSIMILE CERTIFICATE**

I hereby certify that this correspondence is being sent via facsimile to the  
PCT Legal Office at 703-308-6459 on September 8, 2003.

  
Audrey De Souza

06 AUG 20



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Anderson Kill & Olick  
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In re Application of  
KWON et al.  
Application No.: 10/031,123  
Filing Date: 09 January 2002  
Attorney's Docket No.: DE1325  
For: MODIFIED HUMAN GRANULOCYTE  
COLONY STIMULATING FACTOR AND  
PROCESS FOR PRODUCING SAME

DECISION ON  
PETITION

This is in response to applicant's "Petition to Change the Filing Date" filed in the United States Patent and Trademark Office (USPTO) on 05 February 2003, requesting a new filing receipt for the above referenced application.

### **BACKGROUND**

On 09 January 2002, applicant submitted a Transmittal Letter (Form PTO-1390) requesting processing as a national stage application under 35 U.S.C. 371, a copy of the international application, a purported English translation thereof and a substitute specification. The first sentence of the substitute specification submitted indicated the following: "This application is a continuation patent application of PCT Patent Application No. PCT/KR00/00733 which was filed on July 7, 2000, designating the United States of America, now abandoned." Applicant submitted a declaration executing the attached specification and signed by the inventors. The declaration states "This is a continuation application of International Application No. PCT/KR00/00733 filed on July 7, 2000 and designating the United States of America." The papers were treated as a national stage filing under 35 U.S.C. 371 and assigned application no.10/031,123.

On 13 March 2002, a Notification of Missing Requirements was mailed to applicant indicating that an oath or declaration of the inventors, in compliance with 37 CFR 1.497(a) & (b), identifying the application by the international application number and international filing date.

Applicants responded on 13 May 2002, *inter alia*, with a copy of the executed Declaration and Power of Attorney, indicating that the declaration was filed with the original application. Applicants submitted a new diskette containing a computer readable form of the sequence listing and paper copy thereof.

On 08 August 2002, a Notification of Defective Response was mailed to applicant

Application No.: 10/031,123

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indicating that (1) the \$130 surcharge for filing the declaration after the thirty month period was required and (2) the nucleotide and/or amino acid sequence disclosure contained in the application did not comply with requirements set forth in 37 CFR 1.821-1.825 and was required. Applicants responded to the Notification of Defective Response on 05 September 2002 with a new diskette and showing that authorization to charge fees had been provided.

On 02 January 2003, a Notice of Acceptance was mailed to applicant indicating a 35 U.S.C. 371 date of 13 May 2002.

On 03 February 2003, applicant filed the instant petition requesting that a new filing receipt to indicate a filing date of 09 January 2002.

### DISCUSSION

As explained at Section 1893.03(a) of the Manual of Patent Examining Procedure (MPEP), any intended filing of an international application as a national stage application must clearly and unambiguously be identified as such and must satisfy all of the conditions set forth in 35 U.S.C. 371(c). The official PTO Notice published in the Official Gazette at 1077 OG 13 entitled "Minimum Requirements for Acceptance of Applications Under 35 U.S.C. 371 (the National Stage of PCT)" states, in part, the following:

The Patent and Trademark Office is continuing to receive application papers which do not clearly identify whether the papers (1) are being submitted to enter the national stage of the Patent Cooperation Treaty (PCT) under 35 U.S.C. 371 or (2) are being filed as a regular national application under 35 U.S.C. 111.

\* \* \*

If there are any conflicting instructions as to which sections of the statute (371 or 111) is intended the application will be accepted under 35 U.S.C. 111.

On 09 January 2002, applicant filed the basic national fee for entry into the national stage in the USPTO and a transmittal letter identifying the application as a filing under 35 U.S.C. 371. However, a claim of continuation status of PCT/KR00/00733 is made in the accompanying specification, where the following statement appears at page 1 thereof: "This application is a continuation patent application of PCT Patent Application No. PCT/KR00/00733, which was filed on July 7, 2000, designating the United States of America, now abandoned." Applicant's benefit claim under 35 U.S.C. 120 to the international application made at the top of the first page of his specification is inconsistent with a filing to treat the present application as the national stage of PCT/KR00/00733 under 35 U.S.C. 371.

In view of the above noted conflicting instructions, the papers are considered as having been filed under 35 U.S.C. 111(a).

The Notification of Acceptance mailed on 02 January 2003 is hereby VACATED.

### CONCLUSION

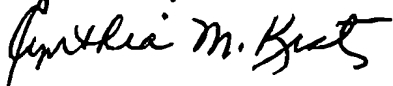
For the reasons above, the present application will be treated as a filing under 35 U.S.C. 111(a). The "Notification of Acceptance" (Form PCT/DO/EO/903) mailed 02 January 2003 is hereby VACATED.

Application No.: 10/031,123

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The application is being forwarded for the National Stage Processing Branch of the Office of PCT Operations to remove the Article 20 papers communicated from the International Bureau to the United States of America.

The application will then be forwarded to the Office of Initial Patent Examination (OIPE) for processing the present application as a filing under 35 U.S.C. 111(a) and having a filing date of 09 January 2002. A new filing receipt will be issued.



Cynthia M. Kratz  
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PCT Legal Office

Telephone: (703) 306-5467



## UNITED STATES PATENT AND TRADEMARK OFFICE

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APPL NO.	FILING OR 371 (c) DATE	GRP ART UNIT	FIL FEE REC'D	ATTY. DOCKET NO	DRAWINGS	TOT CLMS	IND CLMS
10/031,123	05/13/2002	1646	1148	DE1325	11	26	1

CONFIRMATION NO. 6189

Anderson Kill & Olick  
 1251 Avenue of the Americas  
 New York, NY 10020-1182

## FILING RECEIPT



\*OC000000010701009\*

Date Mailed: 08/19/2003

Receipt is acknowledged of this regular Patent Application. It will be considered in its order and you will be notified as to the results of the examination. Be sure to provide the U.S. APPLICATION NUMBER, FILING DATE, NAME OF APPLICANT, and TITLE OF INVENTION when inquiring about this application. Fees transmitted by check or draft are subject to collection. Please verify the accuracy of the data presented on this receipt. If an error is noted on this Filing Receipt, please write to the Office of Initial Patent Examination's Filing Receipt Corrections, facsimile number 703-746-9195. Please provide a copy of this Filing Receipt with the changes noted thereon. If you received a "Notice to File Missing Parts" for this application, please submit any corrections to this Filing Receipt with your reply to the Notice. When the USPTO processes the reply to the Notice, the USPTO will generate another Filing Receipt incorporating the requested corrections (if appropriate).

## Applicant(s)

Se-Chang Kwon, Seoul, KOREA, REPUBLIC OF;  
 Sung-Youb Jung, Seoul, KOREA, REPUBLIC OF;  
 Sung-Min Bae, Seoul, KOREA, REPUBLIC OF;  
 Gwan-Sun Lee, Seoul, KOREA, REPUBLIC OF;

## Domestic Priority data as claimed by applicant

This application is a 371 of PCT/KR00/00733 07/07/2000

## Foreign Applications

REPUBLIC OF KOREA 1999/27418 07/08/1999

If Required, Foreign Filing License Granted: 08/14/2003

Projected Publication Date: None, application is not eligible for pre-grant publication

Non-Publication Request: No

Early Publication Request: No

## Title

Modified human granulocyte-colony stimulating factor and process for producing same

**Preliminary Class**

435

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**LICENSE FOR FOREIGN FILING UNDER  
Title 35, United States Code, Section 184  
Title 37, Code of Federal Regulations, 5.11 & 5.15**

**GRANTED**

The applicant has been granted a license under 35 U.S.C. 184, if the phrase "IF REQUIRED, FOREIGN FILING LICENSE GRANTED" followed by a date appears on this form. Such licenses are issued in all applications where the conditions for issuance of a license have been met, regardless of whether or not a license may be required as set forth in 37 CFR 5.15. The scope and limitations of this license are set forth in 37 CFR 5.15(a) unless an earlier license has been issued under 37 CFR 5.15(b). The license is subject to revocation upon written notification. The date indicated is the effective date of the license, unless an earlier license of similar scope has been granted under 37 CFR 5.13 or 5.14.

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**NOT GRANTED**

No license under 35 U.S.C. 184 has been granted at this time, if the phrase "IF REQUIRED, FOREIGN FILING LICENSE GRANTED" DOES NOT appear on this form. Applicant may still petition for a license under 37 CFR 5.12, if a license is desired before the expiration of 6 months from the filing date of the application. If 6 months has lapsed from the filing date of this application and the licensee has not received any indication of a secrecy order under 35 U.S.C. 181, the licensee may foreign file the application pursuant to 37 CFR 5.15(b).





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U.S. APPLICATION NUMBER NO.	FIRST NAMED APPLICANT	ATTY. DOCKET NO.
10/031,123	Se-Chang Kwon	DE1325

INTERNATIONAL APPLICATION NO.
PCT/KR00/00733

I.A. FILING DATE	PRIORITY DATE
07/07/2000	07/08/1999

Anderson Kill & Olick  
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New York, NY 10020-1182

**CONFIRMATION NO. 6189**  
**371 ACCEPTANCE LETTER**



\*0C000000010701010\*

Date Mailed: 08/19/2003

### NOTICE OF ACCEPTANCE OF APPLICATION UNDER 35 U.S.C 371 AND 37 CFR 1.495

The applicant is hereby advised that the United States Patent and Trademark Office in its capacity as a Designated / Elected Office (37 CFR 1.495), has determined that the above identified international application has met the requirements of 35 U.S.C. 371, and is **ACCEPTED** for national patentability examination in the United States Patent and Trademark Office.

The United States Application Number assigned to the application is shown above and the relevant dates are:

<u>05/13/2002</u>	<u>05/13/2002</u>
DATE OF RECEIPT OF 35 U.S.C. 371(c)(1), (c)(2) and (c)(4) REQUIREMENTS	DATE OF RECEIPT OF ALL 35 U.S.C. 371 REQUIREMENTS

A Filing Receipt (PTO-103X) will be issued for the present application in due course. **THE DATE APPEARING ON THE FILING RECEIPT AS THE " FILING DATE" IS THE DATE ON WHICH THE LAST OF THE 35 U.S.C. 371 REQUIREMENTS HAS BEEN RECEIVED IN THE OFFICE. THIS DATE IS SHOWN ABOVE.** *The filing date of the above identified application is the international filing date of the international application (Article 11(3) and 35 U.S.C. 363).* Once the Filing Receipt has been received, send all correspondence to the Group Art Unit designated thereon.

The following items have been received:

- Copy of the International Application filed on 01/09/2002
- Copy of the International Search Report filed on 01/09/2002
- Copy of IPE Report filed on 01/09/2002
- Preliminary Amendments filed on 01/09/2002
- Biochemical Sequence Diskette filed on 05/13/2002
- Oath or Declaration filed on 05/13/2002
- Biochemical Sequence Listing filed on 05/13/2002
- Request for Immediate Examination filed on 01/09/2002
- Copy of references cited in ISR filed on 01/09/2002
- U.S. Basic National Fees filed on 01/09/2002
- Assignee Statement filed on 01/09/2002

- Priority Documents filed on 05/13/2002

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Applicant is reminded that any communications to the United States Patent and Trademark Office must be mailed to the address given in the heading and include the U.S. application no. shown above (37 CFR 1.5)

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PATRICIA A BOOKER  
Telephone: (703) 305-3738

**PART 1 - ATTORNEY/APPLICANT COPY**

FORM PCT/DO/EO/903 (371 Acceptance Notice)

